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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

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Analysis of House Bill 5936 (As Introduced)

Topic: Certified Public Accountant Mobility
Sponsor: Representative Coulouris
Co-Sponsors: Representatives Bieda, Griffin, Moore, Huizenga, and Mayes
Committee: House Banking and Financial Services

Date Introduced: April 8, 2008

Date Enrolled:

Date of Analysis: April 10, 2008

Position: The Department of Labor & Economic Growth supports the bill.

Problem/Background: Although a multi-state company may want to use the same accountant or accounting firm to audit all its locations, state licensing laws related to out-of-state practice can be an obstacle. A concept called “substantial equivalency” has been the traditional way for states to handle this. If you had a license from a state that required 150 hours of education, a passing grade on the national examination, and one year’s experience, you could theoretically take your documentation to the state licensing agency, pay your fee, and receive your practice permit. Unfortunately, it doesn’t always work so neatly in practice, because states have not uniformly adopted the Uniform Accountancy Act. There are substantial differences in state laws, particularly with respect to notice requirements. This complicates the free flow of commerce between the states.

The American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy are promoting model mobility legislation to be adopted in all 55 state and territorial licensing jurisdictions. As of February 21, 2008 mobility legislation had been enacted in 13 states and was pending in 18 others. Two states, Ohio and Virginia, have had “no notice, no fee” statutes for some time, Ohio for 45 years and Virginia for 7 years.

Description of Bill: The bill amends Article 7 of the Occupational Code to grant practice privileges to certain individuals licensed in other states. These privileges could be exercised without notice and without payment of a fee. An individual would be required to have at least 150 semester hours of college education and a baccalaureate or higher degree, achieve a passing grade on the uniform certified public accountant examination, and possess at least one year of experience. Alternatively, an individual holding a valid license issued by another licensing jurisdiction prior to January 1, 2012 and passing the examination is exempt from the education requirement. A firm not required to obtain a Michigan license may perform a review engagement under specified conditions, including the performing of the services by an individual with practice privileges as specified in the bill. The firm would be required to have legal authority to perform services in the state where individuals with practice privilege have their principal place of business. The penalty section of Article 7 is amended to include individuals exercising practice privileges under the bill and the firm employing the individual. The individual

exercising the practice privilege and the firm employing the individual are declared to consent to several stipulations as a condition of exercise of the privilege. These are:

- Personal and subject matter jurisdiction and disciplinary authority of the board and the department.
- Compliance with the act and applicable rules.
- Cease offering or rendering professional services in the state in the event the license in the individual licensing jurisdiction becomes invalid.
- Appointment of the state board or other licensing authority issuing his or her license as the agent for service.

An individual with practice privileges may perform an engagement for an entity with a home office in Michigan only through a firm licensed under Section 728.

A Michigan licensee offering or rendering services or using the certified public accountant title in another state or before a state or federal agency is subject to disciplinary action in this state for acts committed that would be subject to discipline in that license jurisdiction. The department is required to examine any complaint made by the state board or other licensing jurisdictional authority and may accept the board or authority's final order as prima facie evidence of a violation.

Summary of Arguments

Pro: The bill provides a good balance between the economic needs of commerce and the state's regulatory interest. In this era of electronic commerce, the professional services of an accountant may be provided by mail, telephone, or computer. Current state regulatory requirements, which require notice, payment of a fee, and issuance of a temporary permit, are obstacles to free flow of commerce across state lines.

The evidence suggests that this legislation is unlikely to create regulatory problems for Michigan. Ohio has had a similar law for 45 years and has reportedly had to discipline two out-of-state firms during that time. Virginia, which has had its law for 7 years, has had only one disciplinary case. If discipline is needed, the National Licensee Database provides license status and other information that can be centrally accessed by the department.

Con: The mobility approach to the out-of-state practice is not likely to work any better than the "substantially equivalent" approach that it replaces, because states will not implement these laws uniformly. Furthermore, since 21 of 55 licensing jurisdictions have not even adopted the current substantial equivalency concept, it is unreasonable to expect that all states and territories will adopt the new model. Three of the nation's largest states, California, Florida, and New York, have neither adopted mobility legislation nor do they have legislation pending.

Fiscal/Economic Impact

(a) Department

Budgetary: The bill will have little or no budgetary impact on the department. The work related to issuing temporary licenses for out-of-state CPA's will be eliminated. Recent permit activity is as follows:

2008 (to date)	54
2007	74
2006	53
2005	38

Also, it is not expected that this proposal will increase enforcement related costs. Out-of-state CPA's already enter the state. The bill merely changes the way they will enter.

Revenue: The bill may have a small impact on the fees currently paid by CPA's for temporary permits. Recent revenue experience has been as follows:

2008 (to date)	\$5,400
2007	\$7,400
2006	\$1,445
2005	\$ 630

Comments:

(b) State

Budgetary: The bill will have no impact on the state budget.

Revenue: The bill will have no impact on state revenues.

Comments:

(c) Local Government

Comments: The bill will have no direct impact on local government.

Other State Departments: The department is not aware of impacts on other departments.

Any Other Pertinent Information: The Michigan Association of Certified Public Accountants supports the bill.

Administrative Rules Impact: Revisions to the department's administrative rules may be needed.

